

SETTLEMENT AGREEMENT AND RELEASE

I. PARTIES

This Settlement Agreement and Release (“Agreement”) is entered into as of the “Effective Date”, defined in paragraph 25 below, by and among the STATE of TEXAS (“STATE”), and Inwood Laboratories, Inc., and Forest Laboratories, Inc. (collectively referred to as “INWOOD”). The STATE and INWOOD are each individually referred to as a “Party” and collectively referred to as the “Parties” in this Agreement.

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Forest Laboratories, Inc. develops, manufactures, markets, and sells branded pharmaceutical products in the United States. It is incorporated under the laws of the State of Delaware and headquartered in New York, New York. Inwood Laboratories, Inc. is a wholly-owned subsidiary of Forest Laboratories. Although it is presently inactive, Inwood Laboratories has in the past developed, manufactured, marketed, and sold generic equivalents of Forest Laboratories’ branded pharmaceutical products in the United States. Inwood Laboratories is organized under the laws of the State of New York and has its principal place of business in New York, New York. Unless otherwise noted, Forest Laboratories, Inc. and all of its subsidiaries, including but not limited to Inwood Laboratories, Inc., are collectively referred to herein as “INWOOD.”

B. The pharmaceutical products INWOOD manufactured, marketed, distributed, and/or sold using the Labeler Code **00258** are referred to as the “Covered Drugs.”

C. The STATE contends that between September 1, 1995 and the Effective Date, INWOOD knowingly set, reported, and/or maintained, or caused to be set, reported, and/or maintained false, fraudulent, and/or inflated prices for certain of the Covered Drugs, including the prices reported directly to the Texas Vendor Drug Program (“VDP”). The STATE further contends that INWOOD submitted or caused to be submitted, false claims to the VDP for certain of the Covered Drugs based on those false and/or inflated reported prices. The STATE further contends that while INWOOD submitted false prices for certain of the Covered Drugs to VDP, INWOOD withheld or failed to submit accurate acquisition costs for certain of the Covered Drugs to VDP. The STATE contends that INWOOD has committed unlawful acts, as defined by Tex. Hum. Res. Code Ann. § 36.002, in connection with the submission or withholding of pricing information to the VDP, including for the purpose of including certain of INWOOD’s Covered Drugs on the Texas Drug Code Index (“TDCI”). The conduct described in this paragraph is hereinafter referred to as the “Covered Conduct”.

D. INWOOD has a number of defenses to the STATE’s claims, and has denied and continues to deny the STATE’s allegations or any wrongdoing as may be alleged by the STATE.

E. This Agreement is the result of a compromise of disputed issues of law and fact and is neither an admission of facts or liability by INWOOD, nor a concession by the STATE that the STATE’s claims are not well-founded.

F. As a result of a mutual desire to settle their disputes, and to avoid the delay, expense, inconvenience and uncertainty of protracted litigation of the STATE’s claims, the Parties have reached a full and final settlement of the STATE’s claims, as set forth in this Agreement; and

G. The STATE has concluded that this settlement is in the public interest.

III. AGREEMENT

NOW, THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants, and obligations set forth below in this Agreement, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. The foregoing Preamble is incorporated herein.
2. Within seven (7) business days of the Effective Date, INWOOD agrees to pay the STATE the aggregate sum of **THREE MILLION UNITED STATES DOLLARS (\$3,000,000)** (the “Final Settlement Payment”), and in accordance with the wire instructions to be provided by the STATE. The Parties further agree that all amounts payable to the State, including attorneys’ fees, or to the United States, shall be paid out of the Final Settlement Payment, and that INWOOD will have no liability or obligation to make any such payment. By entering into this Agreement, INWOOD agrees that neither it nor its counsel may direct or influence the manner in which the STATE allocates the Final Settlement Payment. The STATE will allocate and distribute attorneys’ fees and costs, as well as the United States’ pro rata share of the Final Settlement Payment, in accordance with state and federal law. The payment of the Final Settlement Payment shall satisfy INWOOD’s obligation to make payments under this Agreement. The parties agree that if the United States is entitled to a portion of the Final Settlement Payment (the “Federal Share”), INWOOD has no obligation or responsibility to participate in the determination of the Federal Share, or to make any additional payments in respect of the Federal Share.

3. Notwithstanding the foregoing, the STATE shall not allocate, attribute, or characterize any portion of the Final Settlement Payment as the payment of fines, other punitive damages, or for other law enforcement objectives, such Final Settlement Payment being allocated or attributed to or characterized only as compensatory payments to the STATE or the United States or payments to make the STATE whole for its investigatory costs and other reasonable costs of litigation, including attorneys' fees. INWOOD agrees that it will not object to this characterization.
4. Subject to the exceptions in Paragraph 7 below, in consideration of the obligations of INWOOD set forth in this Agreement, and conditioned upon INWOOD's payment in full of the Final Settlement Payment, the STATE (on behalf of (i) itself, its past and present officers, agents, entities, divisions, agencies and departments and (ii) any insurers and reinsurers of those identified in subclause (i) (collectively the "STATE")), fully and finally, and to the greatest extent allowed by law, release INWOOD and (i) its past and present holding companies, predecessors, successors, parents, subsidiaries, entities and divisions; (ii) all past and present officers, directors, members, partners and/or limited partners, principals, assigns, representatives, employees, agents, servants, shareholders and attorneys of INWOOD and those identified in subclause (i); (iii) all heirs, executors, administrators, spouses, agents and assigns of those identified in subclauses (i) and (ii); and (iv) any insurers and reinsurers of INWOOD and those identified in subclauses (i) and (ii) (collectively, the "INWOOD Released Parties") from any civil or administrative claim, action, suit or proceeding (including attorneys' fees,

penalties, costs, and expenses of every kind and however denominated) the STATE has or may have or could assert in the future under any source of law against the INWOOD Released Parties related to the Covered Conduct. In addition, the Parties agree that the payment of the Final Settlement Payment fully discharges the INWOOD Released Parties from any civil or administrative obligation to the STATE to pay restitution, damages, penalties or fines to the STATE for the Covered Conduct. In addition, the Office of the Attorney General of Texas agrees that it shall not initiate or prosecute litigation or any other civil or administrative action, including by way of example and not limitation, civil investigative demands, against the INWOOD Released Parties, related to the Covered Conduct, on behalf of itself or the United States.

5. In consideration of the obligations of INWOOD set forth in this Agreement, conditioned upon INWOOD's payment in full of the Final Settlement Payment, the STATE agrees to release and refrain from instituting, directing or maintaining any action seeking exclusion from the VDP or any other Texas Medicaid program against the INWOOD Released Parties for the Covered Conduct.
6. INWOOD fully and finally releases the STATE, its agencies, employees, servants, attorneys and agents from any claims based on events occurring prior to the date of this Agreement (including attorney's fees, costs, and expenses of every kind and however denominated) which INWOOD has asserted, could have asserted, or may assert in the future against the STATE, its agencies, employees, servants, attorneys and agents, related to the Covered Conduct and the STATE's investigation thereof.

7. Notwithstanding any other terms of this Agreement, including the release provisions in Paragraphs 4, 5, and 6 above, specifically reserved and excluded from the definition of Covered Conduct, and thus the scope and terms of this Agreement, and from the scope and terms of the releases, as to any entity or person (including INWOOD, and the STATE), are the following, for the time period September 1, 1995 through and including the Effective Date:
- (a) Any claims based upon such obligations created by this Agreement;
 - (b) Any express or implied product or service warranty claims or other claims for defective or deficient products or services, including quality of goods and services, provided by INWOOD;
 - (c) The subrogation rights to claims for personal injury or property damage arising from usage by a participant in the Medicaid program of any of the Covered Drugs;
 - (d) Any claims based on a failure to deliver products or services due;
 - (e) Any claims arising from INWOOD's obligations to report and/or to pay rebates to the STATE under any law or contract, including, but not limited to, the Omnibus Budget Reconciliation Act of 1990 ("OBRA 90");
 - (f) Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code) or any state tax or revenue law;
 - (g) Any criminal liability; or
 - (h) Any claims the STATE may have against INWOOD related to off-label marketing conduct for the Covered Drugs.

8. The STATE hereby agrees that this Agreement, and any and all negotiations, documents and discussions associated with this Agreement shall be without prejudice to the rights of any Party, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by the INWOOD Released Parties or of the truth or the infirmity of any of the claims or allegations of the STATE, and evidence thereof shall not be discoverable or used directly or indirectly by the STATE in any way (except that the provisions of this Agreement may be used by the Parties to enforce its terms), whether in Texas or in any other forum. The STATE agrees it will not urge or seek to admit this Agreement as evidence of any fault or liability of the INWOOD Released Parties in any investigation, administrative claim, action, suit or proceeding, or federal or state court or arbitration proceeding unless ordered to do so by a state court, federal court, or arbitration panel.

9. The STATE represents to INWOOD, subject only to the rights possessed by the United States, that no interest in any claim herein released has been assigned by them to any third party.

10. Within twenty (20) days of the Effective Date of this Agreement, the STATE shall: (A)(i) return to counsel for INWOOD all documents, records, and other materials provided by INWOOD to the STATE in response to, or in connection, with the STATE's investigation of the Covered Conduct, and in the STATE's custody, possession or control, or in the custody, possession or control of any authorized agents, outside experts and consultants retained by the STATE, or (ii) destroy such materials and certify in writing to INWOOD the destruction of such materials; and (B) with respect to documents and data reflected in computer databases or

backup tapes or any other electronic form, securely erase those documents and data and certify in writing to INWOOD the destruction of all such documents and data.

11. Nothing in this Agreement shall be construed to create a waiver of the STATE's Sovereign Immunity.

12. Any Party shall be entitled to enforce the terms of this Agreement in the District Courts of Travis County, Texas, which shall have exclusive jurisdiction and venue over any such action.

13. This Agreement, including all exhibits, constitutes the complete agreement between the Parties with regard to the settlement and dismissal of the Covered Conduct as defined herein. This Agreement may not be amended except by a writing signed by all Parties.

14. Each Party will bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

15. This Agreement shall be governed by the laws of the State of Texas.

16. This Agreement shall be construed and interpreted to effectuate the Parties' intent, which is to resolve completely the STATE's claims and allegations in connection with the Covered Conduct with respect to INWOOD.

17. None of the Parties to this Agreement shall be considered the drafter of this Agreement or of any included provision for the purpose of any statute, case law or rule of construction that would or might cause any provision to be construed against the drafter.

18. The Parties each represent that this Agreement is freely and voluntarily entered into without any degree of duress whatsoever.

19. Unless otherwise stated in writing subsequent to the Effective Date of this Agreement, all notifications and communications made pursuant to this Agreement shall be submitted to the entities listed below:

(a) STATE for all purposes:

OFFICE OF THE ATTORNEY GENERAL
Civil Medicaid Fraud Division
P O Box 12548
Austin, Texas 78711-2548

(b) INWOOD, for all purposes:

Bruce Handler
Dornbush Schaeffer Strongin & Venaglia, LLP
747 Third Avenue
New York, New York 10017

20. The Parties have read the foregoing Agreement and accept and agree to the provisions contained herein and hereby have caused this Agreement to be signed as of the day and date adjacent to their respective signatures. The individual signing this Agreement on behalf of INWOOD represents and warrants that he is authorized by INWOOD to execute this Agreement. The undersigned STATE signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement and to compromise the claims of the STATE.

21. The Parties represent and acknowledge that in entering into this Agreement they are not relying on any promises or representations other than those expressly set forth in this Agreement and its exhibits.

22. The waiver of any rights conferred by this Agreement shall be effective only if made in writing by the waiving Party. The waiver of any Party of any breach of this Agreement shall

not be deemed or construed as a waiver of any other breach, whether prior to, subsequent to, or contemporaneously with this Agreement.

23. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

24. Each Party agrees to perform such further acts and to execute and to deliver such further documents as may reasonably be necessary to carry out this Agreement.

25. The Effective Date of this Agreement shall be the date of signature of the last signatory to this Agreement.

EXECUTION OF RELEASE

**STATE of TEXAS
Office of the Attorney General**

**Inwood Laboratories, Inc., and
Forest Laboratories, Inc.**

By: _____

By:  _____

Date:

Date: 1/23/13

Raymond C. Winter
Chief, Civil Medicaid Fraud Division
Assistant Attorney General
Office of the Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

Bruce Handler
Dornbush Schaeffer Strongin & Venaglia, LLP
747 Third Avenue
New York, New York 10017

Texas Health & Human Services Commission

By: _____

Date:

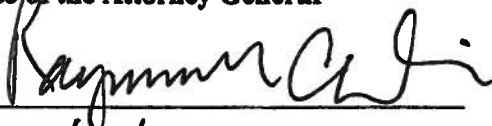
Kyle L. Janek, M.D.
Executive Commissioner
Texas Health & Human Services Commission
Brown-Heatley Building
4900 N.Lamar Blvd.
Austin, Texas 78751-2316

EXECUTION OF RELEASE

**STATE of TEXAS
Office of the Attorney General**

**Inwood Laboratories, Inc., and
Forest Laboratories, Inc.**

By: _____



By: _____

Date: _____

1/29/13

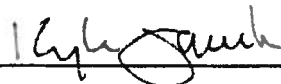
Date: _____

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Texas Health & Human Services Commission

By: _____



Date: _____

1/29/13

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